IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 19503 of 2004

Between:

Sri A. Narasimha, S/o Late Veera Mallaiah (died)
Rep. by his L.R. Kum. Navitha, Minor, adopted daughter

now under the guardianship of Sri A. Sudarshan
R/o Beeramguda, Hamlet of Ameenpur Village,

Patancheruvu Mandal.

... PETITIONER

AND

1 A. Krishna, s/o Narayana.
2 A. Nagabhushanam, S/o Narayana
3 A. Anjaneyulu, s/o Narayana
(RR 1 to 3 R/o Beeramguda,Hamlet of Ameenpur Village, Patancheruvu

Mandal).
4 A.Krishnaiah, s/o Ramaiah,
R/o Nallagandla village, Serilingampalli (M).
5 A. Sudarshan, S/o Sambaiah,
R/o Beeramguda, Hamlet of Ameenpur Village,
Patancheruvu Mandal.
6 P.Manik Reddy, S/o Goura Reddy
7 Ssmt. Prameela, w/o Ramachandra Reddy
(Resopondents No. 6 and 7 R/o Ramachandrapur village).
8 The Joint Collector, Medak at Sangareddy.
9 The Revenue Divisional Officer, Sangareddy,Medak District.
10 The Mandal Revenue Officer, Patancheruvu Mandal, Sangareddy, Medak

District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of Writ of Certiorari, or any other writ or direction calling for records pertaining to proceedings in F3/50/92/2004/F3/28/ Ten/2004 dt. 28-9-2004 on the file of the Joint Collector, Medak at Sangareddy and quash the same.

Counsel for the Petitioner: MR.K.SATYANARAYANA GOUD

Counsel for the Respondents: GP FOR REVENUE

Counsel for R-6 and R-7: Smt. K. Bindu

The Court, at the admission stage, made the following:

ORDER:

Challenging the order passed by the Joint Collector, Medak District in Proc.No.F3/501/92/2004-F3/28/Ten/2004 dt. 28-9-2004 pending appeal, petitioner filed the present writ petition.

2 . By the impugned order, the Joint Collector while suspending the order passed by the Revenue Divisional Officer, Sanga Reddy in file No.A3/3049/2003 dt. 27-8-2004 ordered status quo as on the date of passing the impugned order.

3. Learned counsel for the petitioner contends that petitioner being the heir of the protected tenant is entitled to Ac.1.35 guntas of land out of Ac.7-20 guntas in S.No.701 and submits that petitioner filed an application under Section 32 of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act,1950 (for short “the Act”), which was rightly ordered by the RDO; once possession is delivered, without there being any pleading to the illegality of the order passed by the Revenue Divisional Officer, ordering restoration holding Panchanama

conducted is not in accordance with procedure laid down, the Joint Collector committed illegality in ordering status quo ante to the date of passing the impugned order.

4 . A perusal of the order dt. 27-8-2004 passed by the Revenue Divisional Officer clearly indicates that the 6th and 7th respondents purchased Ac.4.33 guntas of land on validation of the sale under Section 50-B of the Act from one Mr. A.Ramaiah, son of Veeramallaiah who was the protected tenant of the land, which was attested by the petitioner. But without adverting to the fact that when a person having tangible interest in the immovable property attested the sale deed cannot claim that the sale will not bind him and estopped from claiming share in the property covered by sale deed (See: 1974(2) APLJ 404, AIR 1975 Mad 278 and 1968 AP 291) ordered for restoration of possession. While ordering restoration of possession no time limit is prescribed for vacation of land as contemplated under the Transfer of Possession and Eviction Rules, 1957 (for short “the Rules”) issued under Sections 32, 94 and 98 of the Act. Rule 4 of the Rules contemplates that in case the present occupation is held to be unauthorized or wrongful, the order shall specify the time within which the unauthorized or wrongful, the order shall specify the time within which the unauthorized wrongful occupant shall vacate the land and deliver possession to the person in whose favour an order has been passed. Every such order to vacate shall be complied with within the time specified therein. Only for noncompliance of the said order, the revenue officials shall take possession and deliver the same to the person in whose favour an order has been passed under a Panchanama. But, whereas the order passed under Section 32 was served on the very same day of Panchanama conducted without any prior notice to R-6 and R[7. In the Panchanama, it is clearly mentioned that there is standing crop raised by the 6th and 7th respondents, hence

delivering the property with the standing crop without demarcation of Ac.1-35 guntas *prima facie* cannot be sustained without there being any order as contemplated under Rule 4 of the Rules. It is not in dispute that respondents 6 and 7 raised crop and in the absence of any order for forfeiture of the same are entitled to harvest the same. In view of the same, the order passed by the Joint Collector in tune with equity does not suffer from any infirmity and more so the same being an interim order capable of being corrected while disposing the appeal.

I see no grounds to entertain the writ petition and it is accordingly dismissed. NO costs. However, the Joint Collector is directed to dispose of the appeal after following due procedure.

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A.GOPAL REDDY,J

November 3, 2004

Mrr/kmr

To

1. The Joint Collector, Medak at Sangareddy.

2. The Revenue Divisional Officer, Sangareddy Medak District.

3. The Mandal Revenue Officer, Patancheruvu Mandal, Sangareddy, Medak District.

4. Two CCs to the G.P. for Revenue, High Court Buildings, Hyderabad (OUT)

5. Two CD copies.